

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 735
93RD GENERAL ASSEMBLY

Reported from the Committee on Workforce Development and Workplace Safety April 19, 2006 with recommendation that House Committee Substitute for Senate Bill No. 735 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

3197L.05C

AN ACT

To repeal sections 287.480, 288.240, 537.690, and 595.036, RSMo, and to enact in lieu thereof four new sections relating to applications for review or appeal filed with the labor and industrial relations commission.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 287.480, 288.240, 537.690, and 595.036, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 287.480, 288.240, 537.690,
3 and 595.036, to read as follows:

287.480. 1. If an application for review is made to the commission within twenty days
2 from the date of the award, the full commission, if the first hearing was not held before the full
3 commission, shall review the evidence, or, if considered advisable, as soon as practicable hear
4 the parties at issue, their representatives and witnesses and shall make an award and file it in like
5 manner as specified in section 287.470. Any notice of appeal, application or other paper required
6 under this law to be filed with the division or the commission shall, when mailed to or
7 transmitted by electronic facsimile meeting the requirements of the division and received by the
8 division or the commission, be deemed to be filed as of the date [endorsed] **postmarked** by the
9 United States post office on the envelope or container in which such [paper is received,]
10 **documents are received, or as of the date certified by a commercial parcel delivery service**
11 **as the date its customer deposited for delivery the envelope or container in which such**
12 **documents are received,** or the date received if filed by facsimile. In instances where the last

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 day for the filing of any such paper falls on a **Saturday**, Sunday, or legal holiday, the filing shall
14 be deemed timely if accomplished on the next day subsequent which is neither a **Saturday**,
15 Sunday [or] , **nor** a legal holiday. When filing by electronic facsimile meeting the requirements
16 of the division, the parties shall, on the same date as the facsimile transmission, mail [by the
17 United States mail] the original and the requisite number of copies to the commission.

18 2. An employer who has been determined by the division to be an employer subject to
19 and operating pursuant to this chapter and has also been determined to be uninsured may file an
20 application for review but such application for review shall be accompanied with and attached
21 to the application for review a bond which shall be conditioned for the satisfaction of the award
22 in full, and if for any reason the appeal is dismissed or if the award is affirmed or modified, to
23 satisfy in full such modification of the award as the commission may award. The surety on such
24 bond shall be a bank, savings and loan institution or an insurance company licensed to do
25 business in the state of Missouri. No appeal to the commission shall be considered filed unless
26 accompanied by such bond and such bond shall also be a prerequisite for appeal as provided in
27 section 287.495 and such appeal pursuant to section 287.495 shall not be considered filed unless
28 accompanied by such bond. If any other employer pursuant to section 287.040 would be liable,
29 the employee shall be paid benefits from the bond until the bond is exhausted before the section
30 287.040 employer is required to pay.

288.240. Any notice of appeal, application or other paper required under this law to be
2 filed with the division or the commission shall, when mailed to **or transmitted by electronic**
3 **facsimile meeting the requirements of the division or commission** and received by the
4 division or the commission, be deemed to be filed as of the date [endorsed] **postmarked** by the
5 United States post office on the envelope or container in which such [paper is received]
6 **documents are received, or as of the date certified by a commercial parcel delivery service**
7 **as the date its customer deposited for delivery the envelope or container in which such**
8 **documents are received, or the date received if by facsimile.** In instances where the last day
9 for the filing of any such paper falls on a Saturday, Sunday, or legal holiday, the filing shall be
10 deemed timely if accomplished on the next day which is neither a Saturday, Sunday, nor a legal
11 holiday. **When filing by electronic facsimile meeting the requirements of the division or**
12 **commission, the parties shall, on the same date as the facsimile transmission, mail the**
13 **original and the requisite number of copies to the commission.**

537.690. 1. Any of the parties to a decision of the division on a claim heard under the
2 provisions of sections 537.675 to 537.693 may, within thirty days following the date of
3 notification or mailing of such decision, file a petition with the labor and industrial relations
4 commission to have the decision reviewed by the commission. The commission may allow or
5 deny a petition for review. If a petition is allowed, the commission may affirm, reverse or set

6 aside the decision of the division on the basis of the evidence previously submitted in such case
7 or may take additional evidence or may remand the matter to the division with directions. The
8 commission shall promptly notify the parties of its decision and the reasons therefor.

9 2. Any petition for review filed pursuant to subsection 1 of this section shall, **when**
10 **mailed to or transmitted by electronic facsimile meeting the requirements of the division**
11 **or commission and received by the commission**, be deemed to be filed as of the date
12 [endorsed] **postmarked** by the United States Postal Service on the envelope or container in
13 which such [petition is received] **documents are received, or as of the date certified by a**
14 **commercial parcel delivery service as the date its customer deposited for delivery the**
15 **envelope or container in which such documents are received, or the date received if filed**
16 **by facsimile. In instances where the last day for the filing of such paper falls on a**
17 **Saturday, Sunday, or legal holiday, the filing shall be deemed timely if accomplished on the**
18 **next day subsequent which is neither a Saturday, Sunday, nor legal holiday. When filing**
19 **by electronic facsimile meeting the requirements of the division or commission, the parties**
20 **shall, on the same date as the facsimile transmission, mail the original and the requisite**
21 **number of copies to the commission.**

22 3. Any party who is aggrieved by a final decision of the commission entered pursuant
23 to the provisions of subsections 1 and 2 of this section may seek judicial review thereof by
24 appealing, within twenty days of a final decision to the appellate court having jurisdiction in the
25 area where the appellant resides. In such proceedings the attorney general, on behalf of the tort
26 victims' compensation fund, shall defend the decision of the commission. The commission shall
27 not be a party in such actions.

595.036. 1. Any of the parties to a decision of the division of workers' compensation on
2 a claim heard under the provisions of sections 595.010 to 595.070 may, within thirty days
3 following the date of notification or mailing of such decision, file a petition with the labor and
4 industrial relations commission to have such decision reviewed by the commission. The
5 commission may allow or deny a petition for review. If a petition is allowed, the commission
6 may affirm, reverse, or set aside the decision of the division of workers' compensation on the
7 basis of the evidence previously submitted in such case or may take additional evidence or may
8 remand the matter to the division of workers' compensation with directions. The commission
9 shall promptly notify the parties of its decision and the reasons therefor.

10 2. Any petition for review filed pursuant to subsection 1 of this section shall, **when**
11 **mailed to or transmitted by electronic facsimile meeting the requirements of the division**
12 **or commission and received by the commission**, be deemed to be filed as of the date
13 [endorsed] **postmarked** by the United States Postal Service on the envelope or container in
14 which such [petition is received] **documents are received, or as of the date certified by a**

15 **commercial parcel delivery service as the date its customer deposited for delivery the**
16 **envelope or container in which such documents are received, or the date received if filed**
17 **by facsimile. In instances where the last day for the filing of any such paper falls on a**
18 **Saturday, Sunday, or legal holiday, the filing shall be deemed timely if accomplished on the**
19 **next day subsequent which is neither a Saturday, Sunday, nor a legal holiday. When filing**
20 **by electronic facsimile meeting the requirements of the division or commission, the parties**
21 **shall, on the same date as the facsimile transmission, mail the original and the requisite**
22 **number of copies to the commission.**

23 3. Any party who is aggrieved by a final decision of the labor and industrial relations
24 commission pursuant to the provisions of subsections 1 and 2 of this section may seek judicial
25 review thereof, as provided in sections 536.100 to 536.140, RSMo.

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Bill

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